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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,058	12/11/2003	Noel G. Smith	Erv Smith	2499

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EXAMINER
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EDWARDS, LAURA ESTELLE

ART UNIT	PAPER NUMBER
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1734

DATE MAILED: 07/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/735,058

**Applicant(s)**

SMITH, NOEL G.

**Examiner**

Laura Edwards

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 29-71 and 87-100 is/are pending in the application.
- 4a) Of the above claim(s) 87-95 and 97-100 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 38-51 and 65 is/are allowed.
- 6) ☒ Claim(s) 29-37, 52, 56, 57, 59-64, 66-71, and 96 is/are rejected.
- 7) ☒ Claim(s) 53-55 and 58 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                        |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____   |

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*Election/Restrictions*

Newly submitted claims 87-95 and 97-100 are directed to a variety of combinations or inventions independent or distinct from the invention originally claimed for the following reasons: the newest claims are directed to different combinations of a wall or ceiling or booth structure each including panels and a structurally distinct channel. Each independent invention, claims 87, 88, 91, and 97 possibly correlate with a variety of channel configurations corresponding possibly to Figures 7A and/or 7B and/or 8 and/or 12 and/or 13 and/or 16 and/or 23 and/or 25. While the examination of a wall member or ceiling member or booth including adjacent panels with a channel was originally examined with respect to claim 69, new claims 87-95 and 97-100 require further examination and/or search for distinct channel configurations including a) at least one channel formed at one of the ends of one of the panels opposing the end of the adjacent panel, the at least one channel including a first lip and a second lip oriented at an acute angle with respect to the first lip, the first lip oriented substantially parallel to the one of the panels, the adjacent panel having a third lip abutting the second lip, b) at least one channel formed at one of the ends of one of the panels opposing the end of the adjacent panel, the at least one channel including a first lip and a second lip, said first lip extending from said first end in a first direction, and a third lip formed at a second end of said at least first panel, said third lip extending from said second end in said first direction, c) at least one channel formed at a first end of said first panel opposing an end of said second panel, said at least one channel including a first lip and a second lip, a third lip formed at a second end of said first panel, said second panel having a second panel first lip and a second panel second lip, said third lip abuts said second panel second lip, d) at least one channel formed at a first end of said at least first panel, said

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channel having a first lip and a second lip, said first lip oriented substantially parallel to said first panel and extending from said first end in a first direction, and a third lip formed at a second end of said at least first panel, said third lip extending from said second end in said first direction.

None of such configurations were set forth in claim 69 or claims depending from claim 69.

Examination of the additional claims 87-95 and 97-100 would place an undue burden on the Examiner substantially limited in examination time.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 87-95 and 97-100 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 56, 57, and 59-61 are rejected under 35 U.S.C. 102(b) as being anticipated by Stohr (US 4,953,734).

Stohr teaches a cabin or booth capable of receiving a spray comprising a first metal panel (2) and a second metal panel (2'), each panel having opposite ends selectively arrangeable in series with opposing ends of adjacent panels being attached together to form to cabin or booth wall, at least one curved or profiled channel (area 2b) formed at one of the ends of the panels, the channel includes a first lip (2d) and a second lip (2d), the second lip oriented at an acute angle with respect to the first lip, and a downwardly extending post securable to an adjacent panel, the

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post including a post wing having an end (2'd), the post wing end abutting the second lip (See Fig. 7).

Claims 69-71 are rejected under 35 U.S.C. 102(b) as being anticipated by Parth (US 5,725,201).

Parth teaches a solid wall or panel assembly comprising at least two adjacent panels (100, 200) having opposite side ends being attached together to form a solid wall member; and at least one channel (inner area of element 290) formed at one of the ends of one of the panels opposing the end of the adjacent panel, the at least one channel including a first lip (not numbered) and a second lip or bend (not numbered) oriented at an acute angle with respect to the first lip, the first lip extending perpendicular to a first side member of the one of the panels, the adjacent panel having a third lip (180) abutting the second lip (See Fig. 1).

The panel assembly is made from a thermoplastic having some degree of flexibility such that inherently the panels would be rotationally engageable with one another.

The panel assembly can further include a top panel (800).

Claim 96 is rejected under 35 U.S.C. 102(b) as being anticipated by Byrne, Jr. et al (US 3,290,850).

Byrne, Jr. et al teach a panel assembly capable of forming a booth comprising at least a first panel (10), an adjacent second panel (10) having opposite ends, said panels arranged together in series to form a spray booth wall; at least one channel (interior area of element 14) formed at one of said ends of said at least first panel, said channel having a first lip (not

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numbered), and a second lip (not numbered) oriented at an acute angle (col. 1, lines 49-58) with respect to said first lip; said channel positioned at an exterior side of wall or support (18; col. 2, lines 14-18).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 29-37, 52, 62-64, and 66-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stohr (US 4,953,734).

Stohr teaches a cabin or booth capable of receiving a spray comprising a first metal panel (2) and a second metal panel (2'), each panel having opposite ends selectively arrangeable in series with opposing ends of adjacent panels being attached together to form to cabin or booth wall, at least one curved or profiled channel (area 2b) formed at one of the ends of the panels, the channel includes a first lip (2d) and a second lip (2d), the second lip oriented at an acute angle

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with respect to the first lip, and a post (2'a) securable to the second panel and engageable in the at least one channel to releasably engage the at least one panel to attach ends of adjacent panels (See Figs. 2, 3, and 7). Stohr provides the second lip extending from the first lip and even though the second lip is not extending from an outward or pointed end of the first lip, Stohr recognizes that a number of constructions can be construed in so long as the bends (i.e., lips) butt against one another (col. 1, lines 41-45) such that it would have been within the purview of one skilled in the art to provide the second lip extending from an outward or pointed end of the first lip in so long as the lips butt against one another.

With respect to post including a wing, see Fig. 7, wherein post includes a wing (2'd).

With respect to claim 62, even though Stohr provides a first lip (2d) which is disposed at an angle offset from being parallel with one of the panels, it would have been within the purview of one skilled in the art to provide the first lip including the second lip and wing (2'd) at less of an angle so as to provide for the first lip to be parallel with one of the panels as the lesser angle would not preclude the elements from abutting one another to connect the adjacent panels.

With respect to claim 69, as purported in response to claim 62, it would be within the level of one skilled in the art to make the first lip, the second lip, and wing, of a lesser angle such that the first lip would parallel with one of panels such that the more pointed lip configuration would enable the first lip to be perpendicular to a downwardly extending side member of one of the panels.

***Allowable Subject Matter***

Claims 38, 39, 40-51, and 65 are allowable.

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Claims 53-55 and 58 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.




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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura Edwards whose telephone number is (571) 272-1227. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Fiorilla can be reached on (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Laura Edwards  
Primary Examiner  
Art Unit 1734

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July 14, 2006